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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,754	10/19/2001	Reinhold Schmieding	P/1493-442	6107

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT PAPER NUMBER

3713

DATE MAILED: 02/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/981,754

Applicant(s)

SCHMIEDING ET AL.

Examiner

Kathleen M Christman

Art Unit

3713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1, 2, and 4-12 as unpatentable over Ramshaw et al in view of Ceretta et al for the reasons set forth in the final with regards to claim 1, 2, and 4-8.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: Attached PTO-892


Teresa Walberg
Supervisory Patent Examiner
Group 3700

Continuation of 3. Applicant's reply has overcome the following rejection(s): claims 1, 2 and 4-8 under 35 USC 112, first paragraph; claim 9 under 35 USC 112, second paragraph; claim 9 under 35 USC 102(e); claims 10-12 under 35 USC 103(a).

Continuation of 5. does NOT place the application in condition for allowance because: applicant's arguments are not considered convincing. Firstly the examiner notes that applicant has challenged the examiner's official notice that incorporation of a link to a corporate web page into a software package is old and well known. Although applicant has not specifically shown the flaws in the examiner's logic as required by 37 CFR 1.111(b) the examiner has attached progressive screenshots of the commonly known Adobe Acrobat program (copyrighted 1997-1999) which show how one may access the corporate website through the locally executed program. Specifically the examiner has shown the "online services" page. Applicant's statement that "on order to maintain the rejection the Examiner must cite a reference showing this specific feature in connection with a surgical technique training CD" is incorrect. The examiner, when properly challenged, is only required to produce evidence to support that which official notice was taken on, not the whole of the invention claimed. Applicant's other arguments concerning the Ramshaw reference were fully addressed in the final rejection and applicant has supplied no new evidence or facts to support the allegations of patentability.